

**LETTER OPINION**  
**2005-L-48**

December 21, 2005

The Honorable Wayne G. Sanstead  
Superintendent of Public Instruction  
600 East Boulevard Avenue  
Bismarck, ND 58505

Dear Dr. Sanstead:

Thank you for your letter asking whether schools may be in session on January 2, 2006, which is a Monday following New Year's Day. For the reasons explained below, it is my opinion that schools may not be in session on January 2, 2006.

**ANALYSIS**

Section 15.1-06-02, N.D.C.C., provides that "[s]chools may not be in session on . . . New Year's Day, the first day of January." It further provides that "if the first day of January . . . is a Sunday, the school district shall<sup>1</sup> observe the holiday on the following Monday." The term "may not" is prohibitive,<sup>2</sup> and the term "shall" is mandatory.<sup>3</sup> The plain meaning of the statute requires schools to refrain from holding school on Monday, if New Year's Day falls on a Sunday. January 1, 2006, falls on a Sunday. Therefore, it is my opinion that school may not be held on Monday, January 2, 2006.

Sincerely,

Wayne Stenehjem  
Attorney General

jak/pg

This opinion is issued pursuant to N.D.C.C. § 54-12-01. It governs the actions of public officials until such time as the question presented is decided by the courts.<sup>4</sup>

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<sup>1</sup> Emphasis supplied.

<sup>2</sup> Cf. Continental Resources, Inc. v. Schmalenberger, 656 N.W.2d 730, 736 (N.D. 2003).

<sup>3</sup> N.D.A.G. 2005-L-44.

<sup>4</sup> See State ex rel. Johnson v. Baker, 21 N.W.2d 355 (N.D. 1946).